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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/511,676

08/10/2005

Miko Mihelic

30238-420

6346

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02/12/2008

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EXAMINER

BOEHLER, ANNE MARIE M

ART UNIT

PAPER NUMBER

3611

MAIL DATE

DELIVERY MODE

02/12/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/511,676	Applicant(s) MIHELIC, MIKO	
	Examiner Anne Marie M. Boehler	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6 and 13-19 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6 and 13-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/03/06, 3/11/05, 10/15/04</u> . | 6) <input type="checkbox"/> Other: ____. |

1. Claim amendments filed October 15, 2004 have been entered. Amendments to the specification that were suggested in the PCT have not been entered.
2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings contain photocopier marks. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.
3. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It appears that claim 4 should depend from claim 2, not claim 1, because claim 4 recites "the pivot" which is first referenced in claim 2.

4. Claims 18 and 19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 11, 13, 14, and 17 of copending Application No. 10/866,551). Although the conflicting claims are not identical, they are not patentably distinct from each other because every claimed features is described in the copending application claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 1-3, 6, and 15 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No.

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7,229,089. Although the conflicting claims are not identical, they are not patentably distinct from each other because every claimed feature is described in the earlier patented claims.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Motoo (JP 2000-062672).

Motoo shows, in Figure 7, a bicycle with a rigid frame comprising a top tube, down tubes, seat tube and head tube. A front fork 63 is pivotable to fold backward into a space between laterally spaced down tube members. Handlebars 56 are also pivotable downwardly and back to a folded position.

8. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Trebert (USPN 645,145).

Trebert shows a folding bicycle with a non-folding, rigid frame including a top tube 3, a head tube 1, a down tube 4, and a seat tube 2. Front wheel assembly 13 rotates and folds.

9. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Mueller (DE 4313832).

Mueller shows a bicycle with a head tube, top tube 1, down tube and seat tube rigidly fixed together. Front wheel assembly 5, 6, 11, rotates to fold.

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10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 3, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motoo in view of Hon (USPN 4,438,942).

Motoo shows all of the claimed features, except that it does not teach rotating the front fork 180 before folding the front fork to its folded position.

Hon teaches rotating the front fork 180 to a rearwardly directed position before folding the front fork.

It would have been obvious to one of ordinary skill in the art to configure the folding assembly so the front fork is to be rotated 180 to a rearwardly oriented position before folding the front fork, as taught by Hon, in order to reduce the frame to a more compact folded configuration. Regarding claim 13, Hon also teaches providing a motor to supplement the pedal operation of the bicycle. It would have been obvious to one of ordinary skill in the art to provide the Motoo bicycle with a motor, in order to supplement pedal drive.

12. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motoo and Hon as applied to claims 1 and 3 above, and further in view of Mueller.

The combination lacks a foldable rear wheel assembly and a front wheel fork with swing arms and a stirrup.

Mueller shows a folding bicycle with a folding bicycle with a rigid central frame, a rotatable front wheel assembly and a rotatable rear wheel assembly. The front wheel assembly includes a fork 4, swing arms (unnumbered, between 6 and 5), and a stirrup 5 that can disconnect from fork 4.

It would have been obvious to provide the combination bicycle with a folding rear wheel assembly and a front fork having swing arms and a stirrup, as taught by Mueller, in order to compactly fold the frame and provide a front wheel resilient suspension.

13. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motoo and Hon as applied to claims 1 and 3 above, and further in view of Fan.

The combination lacks a folding rear wheel assembly as claimed.

Fan shows a bicycle with a folding rear wheel assembly including chain stays 6 foldable about pivot 20, a pair of sprockets A, B, mounted to the pivot shaft of the chain stays, a chain ring 8 and a rear sprocket E.

It would have been obvious to one of ordinary skill in the art to provide the combination bicycle with a folding rear wheel assembly, as taught by Fan, in order to provide a more compact package when the bicycle is folded.

14. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Motoo and Hon as applied to claims 1 and 3 above, and further in view of Paioli (USPN 4,582,335).

The combination lacks a second seat support.

Paioli shows a folding bicycle with two seats supports (see Figure 4).

It would have been obvious to one of ordinary skill in the art to provide the combination bicycle with a second seat, as taught by Paioli, in order to accommodate a second rider.

15. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Motoo and Hon as applied to claims 1 and 3 above, and further in view of Underwood (USPN 4,441,729).

The combination lacks folding pedals.

Underwood teaches folding pedals when the frame is folded.

It would have been obvious to one of ordinary skill in the art to provide the combination bicycle with folding pedals, as taught by Underwood, in order to further reduce the size of the bicycle when folded.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M. Boehler whose telephone number is 571-272-6641. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6612. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anne Marie M Boehler/

Primary Examiner, Art Unit 3611